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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,770	04/13/2001	Takeshi Yukitake	JEL-29186C-RE-DIV2	4228

7590 04/15/2004

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EXAMINER

LEE, RICHARD J

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 04/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,770

Applicant(s)

YUKITAKE ET AL.

Examiner

Richard Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/24/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The applicants are informed again that the Statement Under 37 CFR 3.73(b) and the Assent of Assignee as filed are defective since both communications have failed to provide the required dates when signed.

The applicants make note at pages 10-11 of the amendment filed November 24, 2003 that both the Statement under 37 CFR 3.73(b) and the Assent of Assignee were filed and accepted in parent reissue application no. 09/559,627 without objection to absence of a date. The Examiner wants to point out that the absence of dates for the Statement under 37 CFR 3.73(b) and the Assent of Assignee in parent case 09/559,627 was overlooked by the Examiner, and consequently such omission of dates are not in fact acceptable in parent case 09/559,627. Objection was made to the Statement under 37 CFR 3.73(b) and the Assent of Assignee in parent case 09/559,627 as being defective in the Office Action dated January 15, 2004. Concerning the present case, it is still a requirement for the applicants to provide new signed and dated Statement under 37 CFR 3.73(b) and Assent of Assignee documents.

2. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

It is to be noted again that the reissue declaration as filed is defective since it is a duplicate of that filed in parent case 09/559,627. The error(s) set forth and corrected in the present reissue application cannot be the same error(s) being corrected in the parent reissue application 09/559,627. The present reissue declaration must provide/state new error(s) for correction. By having the same error in multiple reissue applications, this violates 35 U.S.C. 251.

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Upon further review of the original declaration filed April 13, 2001, it appears that numerous other errors exist. The filing date of July 20, 1994 for serial number 09/559,627 as indicated in the declaration filed April 13, 2001 is incorrect. The correct filing date is April 27, 2000. In addition, the declaration makes reference to the specification filed April 27, 2000, but without reference to any corresponding application. The applicants are advised to carefully review the declaration to ensure that the new supplemental declaration to be filed does not include the same errors or any other potential error(s) that the Examiner may have overlooked.

The draft reissue declaration as provided along with the amendment filed November 24, 2003 for approval prior to execution is defective for the same reasons as above, mainly since this is a duplicate of that filed in parent case 09/559,627. The draft reissue declaration provides no new error(s) to be corrected that is different from that of parent case 09/559,627. It is to be noted also that the draft reissue declaration incorrectly makes reference to the present application filed May 30, 2001 as serial number 09/866,811. The correct serial number for the present application is 09/833,770.

3. Claims 3-9 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

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4. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At claim 3, lines 15-22, the phrase “calculating ... **from pixels at positions corresponding to the motion vector MV1 and the motion vector MV2 and/or from pixels at positions corresponding to the motion vector MV1 and the motion vector MV2**” as claimed is vague and indefinite. Specifically, the phrase “from pixels ... and the motion vector MV2” as claimed after “and/or” is redundant, thus not further limiting the claim limitation, and rendering the claim indefinite.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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6. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231


or faxed to:

(703) 872-9314, (for formal communications; please mark "EXPEDITED
PROCEDURE") (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Richard Lee whose telephone number is (703) 308-6612. The
Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m., with
alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be
directed to the Group customer service whose telephone number is (703) 306-0377.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl



4/13/04